

BASS, BERRY & SIMS PLC

A PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

315 DEADERICK STREET, SUITE 2700
NASHVILLE, TENNESSEE 37238-0002
(615) 742-6200

KNOXVILLE OFFICE:
1700 RIVERVIEW TOWER
KNOXVILLE, TN 37901-1509
(865) 521-6200

MEMPHIS OFFICE:
PEABODY TOWERS
100 PEABODY PLACE, SUITE 950
MEMPHIS, TN 38103
(901) 543-5900

R. DALE GRIMES
TEL: (615) 742-6244
FAX: (615) 742-2744
EMAIL: dgrimes@bassberry.com
www.bassberry.com

March 2, 2000

BY HAND DELIVERY

Mr. K. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

**Re: Petition of the Tennessee Small Local Exchange Company Coalition for
Temporary Suspension of 47 U.S.C. § 251(b) and § 251(c) Pursuant to
47 U.S.C. § 251(f) and 47 U.S.C. § 253(b).
Docket No. 99-00613**

Dear Mr. Waddell:

Enclosed please find the original and thirteen (13) copies of Petitioner's Motion to Compel Responses to Discovery Request.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to call me.

Very truly yours,



R. Dale Grimes

DRG/cp
Enclosures

cc: Richard Collier, Esq. (w/encls.)
Vincent Williams, Esq. (w/encls.)
Henry M. Walker, Esq. (w/encls.)
Val Sanford, Esq. (w/encls.)
Kemal M. Hawa, Esq. (w/encls.)
James P. Lamoureux, Esq. (w/encls.)
Mr. John Feehan (w/encls.)

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**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

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OFFICE OF THE
EXECUTIVE SECRET.

IN RE:

PETITION OF THE TENNESSEE SMALL LOCAL)	
EXCHANGE COMPANY COALITION FOR)	
TEMPORARY SUSPENSION OF 47 U.S.C. §)	DOCKET NO. 99-00613
251(b) AND 251(c) PURSUANT TO 47 U.S.C. §)	
251(f) AND 47 U.S.C. § 253(b).)	

MOTION TO COMPEL RESPONSES TO DISCOVERY REQUEST

Petitioner, the Tennessee Small Local Exchange Company Coalition ("the Coalition"), hereby moves the Tennessee Regulatory Authority to compel the Interveners in this case to respond to Petitioner's Request for Data and Production of Documents to Interveners served on January 28, 2000. Each of the Interveners, US LEC, Southeast Competitive Carriers Association ("SECCA"), Hyperion of Tennessee, LP ("Hyperion"), and AT&T Communications of the South Central States, Inc. ("AT&T") (collectively, "Interveners") have objected to responding to all the data requests.

With the exception of the objections made by SECCA, the Interveners object to responding to Petitioner's data requests essentially on the basis that the analysis to determine the outcome of this case will presume that "cream skimming" will occur; and, thus, any information from the Interveners about their plans or track record in this regard is unnecessary or irrelevant. If that is the presumption that the Tennessee Regulatory Authority ("TRA") will utilize in this matter, then the Coalition will agree to proceed without the responses of the Interveners to the pending data requests but reserves

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the right to seek additional discovery based on the testimony of the Interveners.¹ If the TRA does not agree with the “cream skimming” presumption, however, then it is imperative that the Interveners be required to respond to Petitioner’s data requests. The information requested from the Interveners is necessary to aid the Petitioner in establishing the economic harm required by the statute.

Regarding the objections filed by SECCA, SECCA objected to responding to the discovery because the data requests seek information from the different companies which comprise SECCA. SECCA asserts that the different companies are not parties to this litigation because SECCA is the party and, thus, the different companies should not be subject to discovery. The members of SECCA, however, are the real parties in interest to the case. If the TRA does not accept the presumption of hypothetical cream-skimming, then the companies comprising SECCA should not be allowed to hide behind the association status and evade discovery. In any event, if SECCA persists in its objection, then the SECCA members could be subpoenaed through Tennessee Code § 4-5-311.

For the reasons stated in this motion, Petitioner respectfully requests an order compelling Interveners to respond to the outstanding discovery requests.

¹In the event this proceeding is consolidated with the US LEC request for intervention to the TDS Companies in Docket No.00-00026, then the scope of discovery and the arguments made by US LEC in its objections to discovery will necessarily change.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Dale Grimes". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

R. Dale Grimes (#6223)

T. G. Pappas (#2703)

Tara L. Swafford (#17577)

BASS, BERRY & SIMS PLC

2700 First American Center

Nashville, TN 37238

(615) 742-6200

Counsel for The Tennessee Small

Local Exchange Company Coalition

CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2000, a copy of the foregoing was served on the following persons, via U. S. Mail, postage pre-paid, or via hand delivery, addressed as follows:

James P. Lamoureux
AT&T
1200 Peachtree St., NE #4068
Atlanta, GA 30367

Vincent Williams, Esq.
Consumer Advocate Division
426 Fifth Ave., N., 2nd Fl.
Nashville, TN 37243-0500

Henry M. Walker, Esquire
Boult, Cummings, et al.
414 Union St., #1600
Nashville, TN 37219

Richard Collier, Esquire
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0500

Val Sanford, Esquire
Gullett, Sanford, Robinson & Martin
230 Fourth Ave., N., 3rd Fl.
Nashville, TN 37219-8888

Kemal M. Hawa
Swidler, Berlin, Shereff, Friedman, LLP
3000 K Street, Suite 300
Washington, D.C. 20007-5116


